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10/807,990	03/23/2004	Mark Maggenti		4659

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EXAMINER	
TRAORE, FATOUMATA	

ART UNIT	PAPER NUMBER
2136	

NOTIFICATION DATE	DELIVERY MODE
01/11/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## Office Action Summary

Application No.

10/807,990

Applicant(s)

MAGGENTI ET AL.

Examiner

Fatoumata Traore

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2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 33-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This is in response to request for continued examination under 37 CFR 1.114, filed October 29<sup>th</sup>, 2007. Claims 29-32 have been cancelled; Claims 33 and 34 have been added; Claims 1-28, 33 and 34 are pending and have been considered below.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 33 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The following limitations of "the encrypting and encapsulating steps are performed at a transport layer Of an Open System" and wherein the encrypting of the first and second, data frames is not based .on a level of encryption associated with a higher layer data object that includes data present within one of the first and second data frames Interconnect (OSI) standard are not disclose in the specification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 7, 10, 13-28, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alden et al (US 6,101,543) in view of Citta et al (US 4,771,458).

***Claims 1, 4, 7 and 10:*** Alden et al discloses a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network comprising:

- a. A receiver (Fig.14, item 253);
- b. A transmitter (Fig.14); and
- c. A processor communicatively coupled to the-receiver and the transmitter, the processor being capable of implementing a method for synchronizing encryption and decryption of a data frame in a communication network (column 14, lines 11-37);
- d. Encrypting a first data frame based on a first unique code in a first communication device, said first unique code being derived from a first sequential code (the transmit path includes an encryption engine for encrypting the data packet) (column 3, lines 18-19), but does explicitly disclose that a sequential encryption is used.

- e. Encapsulating said first encrypted data frame in a first transport frame, said first transport frame comprising a first portion and a second portion of said first sequential code (and encapsulation engine for encapsulating the encrypted data packets into tunnel data frames) (column 3, lines 19-21);
- f. Encrypting a second data frame based on a second unique code in the first communication device, said second unique code being derived from a second sequential code the transmit path includes an encryption engine for encrypting the data packet) (column 3, lines 18-19), but does explicitly disclose that a sequential encryption is used.
- g. Encapsulating said second encrypted data frame in a second transport frame, said second transport frame comprising a first portion and a second portion of said second sequential code (and encapsulation engine for encapsulating the encrypted data packets into tunnel data frames) (column 3, lines 19-21);
- h. And transmitting said first transport frame and said second transport frame to a second communication device, wherein said first portion of said first sequential code and said first portion of said second sequential code identify the same relative portions of said first and second sequential codes, and said second portion of said second sequential code represents a successive relative portion with respect to said second portion of said first sequential code (the new pseudo network adapter includes a transmit path for processing data packets from the

local communications protocol stack for transmission through the pseudo network adapter) (column 3 , lines 15-19).

Alden et al does not disclose that the encryption is based on sequential code encryption. However Citta et al discloses a secure data packet transmission, which used a sequential encryption (DEEP feature, as will be seen, simultaneously encrypts and error protects the data) (column 1, lines 60-65; column 2, lines 54-65; column 3, lines 10-15). Therefore, it would have been obvious for one having ordinary skills in the art modify the teaching of Alden et al such as to use an encryption based on sequential keys. One would have been motivated to do so in order to provide a secure, readily implemented data packet transmission system as taught by Citta et al (column 3, lines 2-6).

**Claims 13, 17, 21 and 25:** Alden et al discloses a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network comprising:

- a. A receiver (Fig.14, item 253);
- b. A transmitter (Fig.14); and
- c. A processor communicatively coupled to the receiver and the transmitter, the processor being capable of implementing a method for synchronizing encryption and decryption of a data frame in a communication network (column 14, lines 11-37);
- d. Receiving a first transport frame, said first transport frame comprising a first encrypted data payload, a first portion of a first sequential code, and a

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second portion of said first sequential code (the new network adapter further include an interface into a transport layer of the local communication protocol stack for capturing received data packets from the remote server node and a receive path for processing received data packet) (column 3, lines 40-45);

e. Receiving a second transport frame, said second transport frame comprising a second encrypted data payload, a first portion of a second sequential code, and a second portion of said second sequential code (the new network adapter further include an interface into a transport layer of the local communication protocol stack for capturing received data packets from the remote server node and a receive path for processing received data packet) (column 3, lines 40-45);

f. And determining said second sequential code using said first portion of said second sequential code, said second portion of said second sequential code, and said second portion of said first sequential code, wherein said first portion of said first sequential code and said first portion of said second sequential code identify the same relative portions of said first and second sequential codes, and said second portion of said second sequential code represents a successive relative portion with respect to said second portion of said first sequential code (the new pseudo network adapter includes a transmit path for processing data packets from the local communications protocol stack for transmission through the pseudo network adapter) (column 3 , lines 15-19).

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But, Alden et al does not disclose that the encryption is based on sequential code encryption. However Citta et al discloses a secure data packet transmission, which used a sequential encryption (DEEP feature, as will be seen, simultaneously encrypts and error protects the data) (column 1, lines 60-65; column 2, lines 54-65; column 3, lines 10-15). Therefore, it would have been obvious for one having ordinary skills in the art modify the teaching of Alden et al such as to use an encryption based on sequential keys. One would have been motivated to do so in order to provide a secure, readily implemented data packet transmission system as taught by Citta et al (column 3, lines 2-6).

**Claims 14, 18, 22 and 26:** Alden et al and Citta et al disclose a method, system and apparatus for transmitting packet from a local communications protocol stack to a virtual private network as in claims 13, 17, 21 and 25 above, and Citta et al further discloses that decrypting of said second encrypted data payload using said second sequential code (the invention resides in the intertwining of the address decryption key) (column 7, lines 15-35). Therefore, it would have been obvious for one having ordinary skills in the art modify the teaching of Alden et al such as to use a decryption based on sequential keys. One would have been motivated to do so in order to increase data integrity.

**Claims 15, 19, 23 and 27:** Alden et al and Citta et al disclose a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network as in claims 13, 17, 21 and 25 above, and Citta et al further discloses that determining said first sequential code using said first portion of said first sequential code, said second portion of said first



sequential code, and said second portion of said second sequential code (The bit packets are assembled with a global bit packet encrypted with a global encryption key and subsequent individually addressed bit packets encrypted with address keys) (column 4, line 43 to column 5 line 15; abstract). Therefore, it would have been obvious for one having ordinary skills in the art modify the teaching of Alden et al such as to distinguish between different portions of the encryption code. One would have been motivate to do so in order to increase data integrity.

**Claims 16, 20, 24 and 28:** Alden et al and Citta et al disclose a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network as in claims 15, 19, 23 and 27 above, and Citta et al further discloses that decrypting of said first encrypted data payload using said first sequential code (A number of global decryption keys which are cycled through in attempts to decrypt the global packets are stored in each subscriber terminal) (column 5, lines 4-15). Therefore, it would have been obvious for one having ordinary skills in the art modify the teaching of Alden et al such as to use a decryption based on sequential keys. One would have been motivate to do so in order to increase data integrity.

**Claim 33:** Alden et al and Citta et al disclose a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network as in claim 1 above, and Alden et al further discloses wherein the encrypting and encapsulating steps are performed at a transport layer Of an Open System Interconnection (OSI) standard (Now with reference to FIG. 1 there is described

for purposes of explanation, communications based on the Open Systems Interconnection (OSI) reference model)(column 4, line65 to column 5 line15).

**Claim 34:** Alden et al and Citta et al disclose a method, a computer readable medium, and an apparatus for transmitting packet from a local communications protocol stack to a virtual private network as in claim 1 above, and Alden et al further discloses wherein the encrypting of the first and second data frames is not based on a level of encryption associated with a higher-layer data object that includes data present within one of the first and second data frames (Fig.21 and Fig. 22).

6. Claims 2, 5, 8, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alden et al (US 6101543) in view of Citta et al (US 4,771,458) in further view of Perlman (US 6363480).

**Claims 2, 5, 8, 11:** Alden et al and Citta et al disclose a method, an apparatus, and a computer readable medium for transmitting packet from a local communications protocol stack to a virtual private network as in claims 1, 4, 7, and 10 above, but do not explicitly disclose that said first portion of said first sequential code and said first portion of said second sequential code each represent a short-term component of said first and second sequential codes. However, Perlman discloses a system and method for a user to encrypt data in a way that ensures data cannot be decrypted after a finite period, which further short-term component of said first and second sequential codes (provide one or more ephemeral encryption keys to party wishing to encrypt a message to be passed to a destination party (column 2, lines 45-53). Therefore, it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to modify the combined method, apparatus, and computer readable medium of Alden et al and Citta et al such as to use ephemeral keys in the encryption process. The motivation for doing so would have been to protect against attempts to retrieve critical information.

7. Claims 3, 6, 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alden et al (US 6101543) in view of Citta et al (US 4,771,458) in further view of Semper (US 6657984)..

**Claims 3, 6, 9, 12:** Alden et al and Citta et al disclose a method, an apparatus, and a computer readable medium for transmitting packet from a local communications protocol stack to a virtual private network as in claims 1, 4, 7, and 10 above, but do not explicitly disclose the transport frame comprises a radio link protocol (RLP) frame. However, Semper discloses a system, method, and apparatus for providing backward compatibility of radio link protocols in a wireless network, which further discloses a transport frame, comprises a radio link protocol (the system comprises a radio link protocol) (column 2, lines 10-15 Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined method, computer readable medium, and apparatus of Alden et al and Citta et al such as to use a radio link protocol. One would have been motivate to do so in order to reduce packets loss rate during transmission.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-28 and 33-34 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

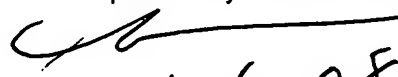
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fatoumata Traore whose telephone number is (571) 270-1685. The examiner can normally be reached Monday through Thursday from 7:00 a.m. to 4:00 p.m. and every other Friday from 7:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nassar G. Moazzami, can be reached on (571) 272 4195. The fax phone number for Formal or Official faxes to Technology Center 2100 is (571) 273-8300. Draft or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 270-2685.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-2100.

FT  
Friday January 4<sup>th</sup>, 2007

Nassar G. Moazzami  
Supervisory Patent Examiner

  
116,08